IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James W. Webster, et al.	)	Attorney Docket No. 560043620560
	)	Case No. 440
Application No.: 09/824,490	)	
Filed: April 2, 2001	)	
For: MODULAR ENCLOSURE SYSTEM FOR ELECTRONIC EQUIPMENT	)	
Examiner: Wilkens, Janet Marie	)	
Art Unit: 3637	)	
Confirmation No.: 9378	)	

REMARKS

New claim 20 has been added to the application so that the application now contains claims 1-20.

Claim 6, 9-11, 13, 15 and 16 were rejected under section 112 due to a lack of antecedent basis and a lack of clarity regarding several terms. These have all been corrected so it is believed that the rejection has been obviated. In addition, the preambles of all of the dependent claims have been modified to avoid any possible confusion.

The specification and drawing have been amended first, by providing a substitute specification having paragraph numbers, and second, by adding a new paragraph containing a further description of the side panel shown in FIG. 8 and of its relationship to the two types of seals also as shown in FIG. 8. The description matches the language which is being used in new claim 20. No new matter is believed to have been added to the application.

The Examiner has found Claims 2, 7, 8, 9-11, 13, 15 and 17-19 to be allowable after certain housekeeping amendments. Amendment however is being deferred until the Examiner

considers the following argument. Applicants thank the Examiner for this indication of allowance.

Claims 1, 3-6, 12, 14 and 16 have been rejected under section 103 primarily over McIlwraith (5,020,866) in view of Flores (5,545,845) and with the addition of Webster (5,136,463) relating only to Claim 14. These rejections are respectfully traversed. The primary combination of references to McIlwraith and Flores appears to be inconsistent with the section 103 requirement that the invention of the application be considered as a whole and not the elements piecemeal.

McIlwraith discloses an enclosure for housing electronic components where a frame 11 includes a rim 31 to which is mounted a gasket 40 having a tubular head 41. The Flores patent discloses a cabinet structure which illustrates rectangular cross-sectioned gaskets 98 and 142. These gaskets are used between door panels, FIG. 10C and between a door panel and frame portions 90, 94, FIG. 8.

The construction proposed in the Office Action in reference to FIG. 6 of the McIlwraith reference would not provide the kind of effective sealing that is achieved by applicants. In most sealing arrangements it is necessary that the seal be placed so that the seal is compressed. This is the case in the McIlwraith reference where the door 13 and the side panel 12 each compresses the gaskets 40 when these elements come together with the stationary frame member 27. The same is true of the two seal arrangements disclosed in Flores where the gaskets 98 are squeezed between parallel surfaces of the stationary frame portions 90, 94 and the door 16, FIG. 8, and where the gasket 142 is placed between the two door panels 122, 124, FIG. 10C and is compressed when the doors come together.

In comparison, placement of seals in the circled locations of FIG. 6 of the McIlwraith reference would not cause compression because the movable door 13 or the panel 12 would either be blocked by the seal and not close properly or there would be a sliding contact causing a shearing force between the seal and the moving surface and not a typical compression force normally associated with a proper seal. In FIG. 6, the panel 12 would be moving upwardly relative to the stationary frame 27 whereas the door 13 would be moving in a rightward direction. Both of these movements cause compression of the existing gaskets 40 but would not do so of a rectangular seal placed in the circled regions of FIG. 6.

It is noted that each reference discloses a cabinet using only one type of seal. Neither reference individually discloses the use of two different types of seals; neither of the references disclose the use of a dual seal arrangement using the same type of seal; neither of the references discloses a construction that would work with two different types of seals like that disclosed in the subject application and neither reference discloses a construction that would benefit from a dual sealing arrangement. Finally, there is no teaching or suggestion in either of the references that they be combined with the other to achieve the type of sealing arrangement which is taught in the subject application. Instead, the combination of references appears to be the result of a breakdown of applicants' invention into elements and then the location of references containing those elements. However, this is an impermissible form of hindsight construction using the invention of the application as a road map to find and combine the references. See the opinion of the Federal Circuit in *Ruiz v. A.B. Chance Co.*, 69 U.S.P.Q.2d 1686, 1690 (Fed.Cir. 2004).

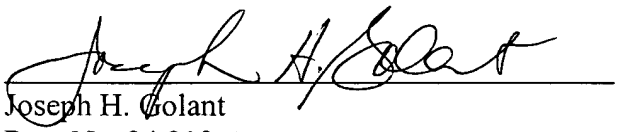
In view of the above comments, the Examiner is respectfully requested to reconsider her rejection of claims 1 and 16. Claim 1 includes the limitation that the "side panels. . .(are) for compressing both said first type and said second type of seals when said side panels are attached

to said frame unit. . ." Claim 16 recites the step of "connecting said side panel to said frame unit for covering one of said side openings in said frame unit and for compressing both said first type of seal and said second type of seal."

These limitations are not disclosed in either reference nor even in a combination of those references. Thus even if the reference were properly combined not all of the limitations would be disclosed.

Dated: April 16, 2004

Respectfully submitted,



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